

Message Text

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DRAFTED BY L/EB:SRBOND

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EB/IFD/OIA:RJSMITH

COMMERCE:DARRILL

TREASURY:MBLAKE

CIEP:JNIEHUSS

JUSTICE:JDAVIDOW

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TAGS: EFIN, EINV, OECD

SUBJECT: AD HOC GROUP TO DRAFT STANDARDS OF BEHAVIOR
FOR MNES

FOR KORP; USUN PASS FELDMAN

REFS: (A) OECD 6929; (B) INF (75)1 ANNEX I

1. WHILE WE SHARE SECRETARIAT'S CLEAR OBJECTIVE OF
ACHIEVING MAXIMUM PROGRESS AT MEETING OF APRIL 3-4, WE
ARE CONCERNED THAT THE PROPOSED PROCEDURE IS NOT WELL
CALCULATED TO THIS END.

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2. WE VIEW THE APRIL 3-4 MEETING AS ONE WHERE EXPERTS WILL ASSIST THE SECRETARIAT IN PREPARING A NEW DRAFT FOR DISCUSSION AT THE IME MEETING OF APRIL 28-29. AS SUCH, ALL PROPOSALS BY EXPERTS WOULD BE AD REFERENDUM AND THE RESULTING DOCUMENT MAY WELL BE LENGTHY SINCE IT WILL REFLECT IDEAS (PERHAPS CONFLICTING) OF SEVERAL STATES.

3. GOAL OF APRIL 3-4 MEETING SHOULD BE TO LAY DOWN BASIC FRAMEWORK OF GUIDELINES, WHICH COULD BE EXPANDED UPON LATER IN THE MORE TECHNICAL AREAS IF IT IS FOUND FEASIBLE AND DESIRABLE TO DO SO. THIS CALLS FOR CAREFUL WORK IN THE PREMBULAR LANGUAGE (WHICH WILL SET DOWN THE PURPOSES OF THE GUIDELINES AND THE SPIRIT IN WHICH THEY ARE DECLARED BY THE PARTICIPATING MEMBER STATES), AND THEN A LEAST A FIRST CUT AT THE MORE GENERAL

SECTIONS I, (GENERAL STANDARDS), II (INDUSTRIAL POLICY), AND IV (DISCLOSURE OF INFORMATION).

4. IT WOULD APPEAR TO BE MOST REASONABLE TO CONCENTRATE FIRST ON THESE AREAS, WHICH ARE MORE SUSCEPTIBLE TO GENERALIZED STATEMENTS, RATHER THAN SUCH AREAS AS SECTIONS IX (EMPLOYMENT AND INDUSTRIAL RELATIONS), X (TECHNOLOGY) AND VI (RESTRICTIVE PRACTICES AND COMPETITION) WHICH ARE EXTREMELY TECHNICAL AND WHERE SPECIALIZED COMMITTEES OF THE OECD ARE NOW STUDYING THE TERMS, FEASIBILITY, AND RELATIVE USEFULNESS OF SUCH GUIDELINES IN THEIR SPECIALIZED AREAS. THE IME SHOULD NOT, AS FIRST STEP, PREJUDGE THE WORK OF THESE GROUPS BY IMMEDIATELY WRITING DETAILED GUIDELINES IN THESE SPECIALIZED AREAS. IN THAT REGARD, THE IME SHOULD SEEK TO EXPEDITE THE WORK OF THE SPECIALIZED COMMITTEES.

5. FYI. WE WOULD HOPE THAT THE GUIDELINES EXERCISE COULD PRODUCE A DOCUMENT REPRESENTING SOME MANNER OF AGREED OECD POSITION ON GUIDELINES WHICH WOULD BE USEFUL IN THE UN AND OTHER FORA CONSIDERING CODES OF CONDUCT FOR

MNES. AT THE VERY LEAST, WE WOULD NOT WISH THE OECD TO PRODUCE GUIDELINES WHICH COULD BE USED TO UNDERCUT OUR LIMITED OFFICIAL USE

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POSITION IN THESE FORA BY NOT REFERRING TO THE OBLIGATIONS OF STATES TO TREAT MNES EQUITABLY AND IN ACCORDANCE WITH INTERNATIONAL LAW, OR BY OTHERWISE GOING COUNTER TO USG GOALS. THUS, WHILE THE US WANTS TO MOVE AHEAD RAPIDLY ON GENERAL GUIDELINES, IT IS OUR POSITION, IN OECD AS WELL AS IN OTHER FORA, THAT DETAILED GUIDELINES IN TECHNICAL AREAS SHOULD BE CONSIDERED ONLY AFTER CAREFUL STUDY BY SPECIALIZED COMMITTEES. FOR THOSE REASONS, IT

IS ESSENTIAL THAT A PREAMBLE SATISFACTORY TO THE USG AND GENERAL GUIDELINES BE AGREED UPON BEFORE IME TURNS TO EXAMINATION OF DETAILED GUIDELINES IN MORE TECHNICAL AREAS. END FYI.

6. GIVEN THE ISSUES TO BE DISCUSSED AT MEETING, WE WONDER WHETHER 1-1/3 DAYS IS SUFFICIENT TIME. AT VERY LEAST, 2 FULL DAYS WOULD SEEM TO BE REQUIRED.

7. DRAFTING SUGGESTIONS FOR GUIDELINES AND COMPOSITION OF U.S. DELEGATION WILL BE CABLED BEFORE MARCH 28.

8. ACTION REQUESTED:

(A) PLEASE TRY TO ASCERTAIN NUMBER, LEVEL AND AREA OF EXPERTISE OF DELEGATION MEMBERS OF OTHER PARTICIPANTS IN APRIL 3-4 MEETING AND INFORM US AS EARLY AS POSSIBLE.

(B) INFORM SECRETARIAT OF OUR STRONG VIEWS ON PROPOSED AGENDA. WORK ON SECTIONS IX AND X SEEMS ESPECIALLY INAPPROPRIATE AT THIS POINT, AND PREAMBLE IS ESSENTIAL.

(C) UNLESS YOU PERCEIVE GOOD REASONS TO CONTRARY, ASK FOR FULL 2 DAY MEETING. INGERSOLL

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